

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

C.A. NO. 04-30241-MAP

MICHAEL F. ERALI,

Plaintiff

v.

TOWN OF ORANGE,

Defendant

ANSWER OF THE DEFENDANT
TOWN OF ORANGE

Now comes the defendant, the Town of Orange, (the “Town”), and hereby files its Answer to plaintiff’s Complaint as follows:

1. Paragraph 1 contains only conclusions of law and an alleged legal basis for asserting this claim to which no response is required. To the extent any factual allegations are made, they are denied.
2. Denied.
3. Paragraph 3 contains only conclusions of law and an alleged legal basis for asserting this claim to which no response is required. To the extent any factual allegations are made, they are denied.
4. Paragraph 4 contains only conclusions of law and an alleged legal basis for asserting this claim to which no response is required. To the extent any factual allegations are made, they are denied.
5. (a) Paragraph 5(a) contains only conclusions of law and an alleged legal basis for asserting this claim to which no response is required. To the extent any factual allegations are made, they are denied.

(b) The defendant lacks sufficient information to either admit or deny the allegation.

(c) The defendant lacks sufficient information to either admit or deny the allegation.

6. Paragraph 6 contains only conclusions of law and an alleged legal basis for asserting this claim to which no response is required. To the extent any factual allegations are made, they are denied.

7. Paragraph 7 contains only conclusions of law and an alleged legal basis for asserting this claim to which no response is required. To the extent any factual allegations are made, they are denied.

8. Admitted.

9. Admitted.

10. Denied.

11. Denied.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. The defendant denies the allegation contained in Paragraph 24. Further answering, the defendant states that the plaintiff and his girlfriend complained to Mr. Forrest about Ms. Daly calling the plaintiff at home.

25. Denied.

26. Denied.

27. The defendant denies the allegation contained in Paragraph 27. Further answering, the defendant states that the plaintiff complained to Mr. Forrest about Ms. Daly calling him at home, and Mr. Forrest suggested that the plaintiff speak to the Cemetery Commissioner, Dan Kimball.

28. The defendant admits that the plaintiff spoke with Mr. Kimball regarding Ms. Daly calling him at home. The defendant denies the remaining allegations contained in Paragraph 28.

29. The defendant denies the allegations contained in Paragraph 29. Further answering, the defendant admits that Mr. Kimball suggested he meet with Ms. Daly and the plaintiff.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

COUNT I

34. Denied.

35. The defendant repeats and realleges its responses to paragraphs 1 through 34 in response to paragraph 35.

36. Denied.

37. Denied.

COUNT II

38. The defendant repeats and realleges its responses to paragraphs 1 through 37 in response to paragraph 38.

39. Denied.

40. Denied.

COUNT III

41. The defendant repeats and realleges its responses to paragraphs 1 through 40 in response to paragraph 41.

42. Denied.

43. Denied.

COUNT IV

44. The defendant repeats and realleges its responses to paragraphs 1 through 43 in response to paragraph 44.

45. Denied.

46. Denied.

The defendant denies that the plaintiff is entitled to relief as demanded.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The plaintiff's claim is barred by the statute of limitations.

THIRD DEFENSE

At all relevant times, the defendant acted in good faith, in an objectively reasonable manner, and properly exercised its lawful discretion and is entitled to qualified immunity.

FOURTH DEFENSE

The Complaint must be dismissed for lack of subject matter jurisdiction.

FIFTH DEFENSE

The claims arising out of the subject matter of the occurrences alleged are barred as the defendant was carrying out executive and administrative functions in good faith.

SIXTH DEFENSE

The plaintiff's action is barred for failure to exhaust administrative remedies.

JURY DEMAND

The defendant demands trial by jury on all issues so triable.

Defendant,

TOWN OF ORANGE

By its attorneys,

/S/ David C. Jenkins

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